

### REMARKS

This Amendment is responsive to the Office Action mailed January 19, 2007 (hereinafter "Office Action") and is accompanied by a petition for a three-month extension of time along with an authorization to charge the required statutory fee. Claims 17-25 and 28-33 were pending at the time of the Office Action. In the Office Action, claims 17, 18, 20-23 and 28-30 are rejected and claims 19, 24 and 25 were objected to as depending on a rejected base claim. By this Amendment, claim 30 is amended, claim 33 is cancelled, and new claims 34-39 are added. No new matter has been added.

Review and reconsideration of the Office Action is respectfully requested in view of the amended claims and the following remarks.

#### **Claim Amendments and New Claims**

Claim 30 has been amended to eliminate any reference to any flavor imparted in the mouth and to incorporate the limitation of claim 33, which has been cancelled. Claim 39 is a minor variation of claim 30. Accordingly, no new matter is added.

The subject matter of claims 34-35 can be found throughout the specification, including paragraphs [0042]-[0043].

The subject matter of claim 36 can be found throughout the specification, including paragraph [0048].

The subject matter of claim 37 can be found throughout the specification, including paragraph [0022]-[0023].

The subject matter of claim 38 can be found throughout the specification, including paragraph [0035]-[0039].

Accordingly, no new matter is added.

#### **Rejections Under 35 U.S.C. § 102**

Claims 30-33 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,231,900 issued to Hanke (hereinafter "Hanke"). Amended claim 30 has been amended to recite that "said rhinologically active flavor preparation comprises said rhinologically active substance with formula (I) mixed with at least one other flavor substance or aroma substance."

Hanke is drawn to a confectionery product and preparation thereof. Hanke teaches that

there are significant negative interactions between cooling agents and flavoring agents, but that the negative interactions may be reduced by incorporating the cooling agent and the flavoring agent into *separate compositions* in the same product, *see Hanke*, col. 1, ln. 38-45 & claim 1. This core teaching of Hanke draws a clear distinction between cooling agents and flavoring agents. Hanke discloses cooling compositions that are free of flavouring agents and that the flavouring agents should be free of cooling agents, *see Hanke*, claim 1. Hanke also instructs that preferred embodiments are preferably free of flavoring agents, *see Hanke*, col. 5, ln. 46-63, or contain cooling agents and flavoring agents that are released sequentially, *see Hanke*, col. 7, ln. 49-67.

Amended claim 30 includes a mixture of compounds of formula I (cooling agents) and flavoring agents. Amended claim 30 is neither disclosed nor suggested by Hanke because (i) the flavor agent is mixed with the compound of formula I, (ii) the preparation includes an aroma substance, or (iii) both. Accordingly, Applicants respectfully request withdrawal of the anticipation rejection based on Hanke.

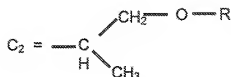
In addition, Applicants respectfully submit that Hanke cannot be combined with another reference to remedy this situation because Hanke teaches away from the claimed combination. Furthermore, Hanke does not disclose or suggest using the combination of rhinologically active substances as part of a method of providing a rhinologically active flavor preparation. For at least these reasons, Applicants respectfully submit that claim 30 is drawn to allowable subject matter. In addition, claims 31-32 & 34-40 are drawn to independently allowable subject matter based on the subject matter claimed therein and their dependency of independent claim 30.

### Rejections Under 35 U.S.C. § 103

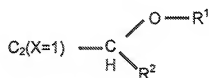
The Examiner rejected Claims 17, 18, 20-23, 28-30 and 33 as being unpatentable over U.S. Patent 5,756,857 issued to Kuribayashi *et al.* (hereinafter "Kuribayashi") in view of Burger's Medicinal Chemistry and Drug Discovery, by Wolff (hereinafter "Wolff"). The Office Action asserts that Kuribayashi teaches a cyclohexanol derivative which is useful for imparting a refreshing cooling feeling to the mouth. The Office Action asserts that Kuribayashi differs from the instant claims in that the rhinologically active of Kuribayashi includes an -OH substituted on the relevant monocyclic saturated carbon system. The Office Action asserts that this deficiency is cured by Wolff which teaches that compounds of Kuribayashi would be expected to have the

same refreshing cooling feeling if the hydroxyl group ( $-\text{OH}$ ) of Kuribayashi is substituted by a methyl ( $-\text{CH}_3$ ) group.

Applicants respectfully point out that even with the suggested substitution, the compound of Kuribayashi do not read on the claimed compounds. Kuribayashi teaches cyclohexane rings with the following substitutions at the following sites:



In contrast, the  $\text{C}_2$  substitution of the claimed monocyclic saturated carbon system must have one of the two following forms:



where  $\text{R}^1$  is an alkyl groups with 1 to 4 carbons

Clearly, even with the substitution suggested by the Office Action, none of the three substitutions indicated by Kuribayashi in view of Wolff are equivalent to the  $\text{C}_2$  substitution of the claimed invention. Thus, the claimed rhinologically active compounds are not disclosed or suggested by any of the cited references, whether alone or in combination. Accordingly, Applicants request withdrawal of the rejection based on Kuribayashi.

### New Claims

As noted above, neither of the cited references render claim 30 unpatentable, in part, because Hanke does not disclose or suggest the claimed process where (i) a flavor agent is mixed with the compound of formula I, (ii) the process utilizes a preparation that includes an aroma substance, or (iii) both. Claims 37, 38 and 39 are variations that focus on these aspects of the invention. In addition, each of the remaining dependent claims is drawn to subject matter that is believed to be independently patentable.

The Commissioner is hereby authorized to charge Deposit Account No. 50-0951 the \$1020.00 fee for the necessary retroactive three month extension of time. No additional fees are presently believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 50-0951.

For at least the above reasons, Applicants believe that all claims are currently in condition for allowance. Favorable consideration and early issuance of the Notice of Allowance are respectfully requested. Should further issues remain prior to allowance, the Examiner is respectfully requested to contact the undersigned at the indicated telephone number.

Respectfully submitted,

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